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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

00 MAY -3 AM 9:56

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**Susano VALTIERRES-Rubio,**

Defendant

Magistrate Docket No.

'08 MJ 1451

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326

## Deported Alien Found in the

United States

The undersigned complainant, being duly sworn, states:

On or about **May 7, 2008** within the Southern District of California, defendant, **Susano VALTIERRES-Rubio**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

James E. Baker


SIGNATURE OF COMPLAINANT

James E. Bailey

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 8<sup>th</sup> DAY OF MAY 2008

ED IN MY PRESENCE, THIS 8<sup>th</sup> DAY OF MAY 2008

  
\_\_\_\_\_  
Louisa S. Porter  
UNITED STATES MAGISTRATE JUDGE

Louisa S. Porter

**CONTINUATION OF COMPLAINT:****Susano VALTIERRES-Rubio****PROBABLE CAUSE STATEMENT**

On May 7, 2008, at approximately 1:30 a.m., Border Patrol Agent S. Stead was performing linewatch duties in the Chula Vista Border Patrol Station's Area of Responsibility. At that time, Senior Patrol Agent C. Loy, who was operating an infrared camera, notified him that four individuals were walking north near an area known as the "25 Saddle." This area is frequently used by undocumented immigrants to gain entry into the United States and is located approximately three miles east of the Otay Mesa, California Port of Entry and one half mile north of the United States/Mexico International Boundary. Upon arriving at the location, Agent Stead found four individuals lying in a brushy area. Agent Stead identified himself as a United States Border Patrol Agent, and questioned them regarding their citizenship, nationality, and immigration documentation. All four individuals, including one later identified as the defendant, **Susano VALTIERRES-Rubio**, admitted to having entered the United States without inspection, and that they were citizens and nationals of Mexico. The four individuals also stated that they were not in possession of immigration documents that would allow them to enter or remain in the United States legally. At approximately 1:45 a.m. all four individuals were arrested and transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on July 10, 2006 through San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

At approximately 6:15 a.m., the defendant was advised in the Spanish language of his Miranda rights. The defendant stated that he was willing to answer questions at this time without an attorney being present. The defendant stated that he is a citizen and national of Mexico and that he illegally crossed the United States/Mexico International Border near Tecate, Mexico